



October 26, 2016

Sedimentation Control Commission
Attn: Ms. Robin Smith
Toby Vinson, Section Chief
Department of Environmental Quality
Division of Energy, Mineral and Land Resources/
Land Quality Section

Ms. Smith,

Please accept this letter as the Town of Waxhaw's official request to establish a locally delegated erosion and sedimentation control program. On October 25, 2016 the Town adopted the attached ordinance and associated documents for the purpose of creating an erosion and sedimentation control program. The attached ordinance is based on the model provided by the Department of Environmental Quality. It has been reviewed by the Department of Environmental Quality staff and the Town's attorney and should be in conformance with the requirements of the SPCA and Sedimentation Control Commission (SCC) and ready for approval for a delegation by the SCC.

The Town of Waxhaw staff will be responsible for review and inspection of all erosion and sedimentation control plans. Further, it is understood that as part of the local delegation all files previously approved by the State (privately funded projects) whether active or closed will be transferred to the Town of Waxhaw upon delegation of an erosion and sedimentation control program.

Sincerely,

Warren Wood
Town Manager

MEMORANDUM OF AGREEMENT

BETWEEN

THE NORTH CAROLINA SEDIMENTATION CONTROL COMMISSION

AND

THE TOWN OF WAXHAW

This MEMORANDUM OF AGREEMENT is entered into between the **North Carolina Sedimentation Control Commission** (hereinafter, “Commission”) and the Town of Waxhaw (hereinafter, “local government,” collectively, “Parties”) for the purpose of clarifying their roles in the enforcement of the Sedimentation Pollution Control Act of 1973, N.C. Gen. Stat. Ch. 113A Art. 4 and any rules adopted pursuant to the Act (hereinafter collectively, “SPCA.”)

Part I. Local Program Creation.

A. Model Ordinance

The Parties agree that the Commission shall do the following:

1. Per N.C. Gen. Stat. § 113A-54 (d) (1), provide a model erosion and sedimentation control ordinance (hereinafter, “model ordinance”) for adoption by local governments who wish to operate a delegated local erosion and sedimentation control program (hereinafter, “local program.”)
2. Update its model ordinance upon changes in the SPCA.

B. Proposed Ordinance Review

The Parties agree that:

1. Local governments who choose to create and operate a local program may do so by ordinance (hereinafter, “local program ordinance”.) However, the local government must submit the proposed local program ordinance to the Commission for review prior to adoption.

2. North Carolina General Statute § 113A-60(b) requires the Commission to review, approve, approve as modified, or disapprove proposed local program ordinances based upon the minimum requirements of the SPCA.
3. The Commission shall review a local program ordinance submitted and, within 90 days of receipt thereof, shall notify the local government submitting the program that it has been approved, approved with modifications, or disapproved.
4. The local program's erosion and sedimentation control standards must equal or exceed those of the SPCA.
5. The local government has an existing local program and an ordinance approved by the Sedimentation Control Commission.

Part II. Responsibilities and Expectations of the Commission.

A. Local Program Review

The Parties agree that the Commission shall do the following:

1. Review periodically approved local programs for compliance with the SPCA. The results of the reviews shall be presented at the next quarterly meeting of the Commission.
2. If the Commission determines that any local government is failing to administer or enforce an approved erosion and sedimentation control program, it shall notify the local government in writing and shall specify the deficiencies of administration and enforcement.
3. If the local government has not taken corrective action within 30 days of receipt of notification from the Commission, the Commission shall assume administration and enforcement of the program until such time as the local government indicates its willingness and ability to resume administration and enforcement of the program.

B. Training and Education for Local Programs

The Parties agree that the Commission shall provide the following:

1. Educational programs in erosion and sedimentation control directed toward persons engaged in land-disturbing activities, general educational materials on erosion and sedimentation control, and instructional materials for persons involved in the enforcement of the SPCA and erosion and sedimentation control rules, ordinances, regulations, and plans.
2. Manuals and publications to assist in the design, construction and inspection of erosion and sedimentation control measures.
3. Periodic reviews of local erosion and sedimentation control programs and through the reviews provide recommendations to improve program administration.
4. Technical assistance in review of draft erosion and sedimentation control plans for complex activities.

C. Concurrent Jurisdiction

The Parties agree that the Commission shall maintain concurrent jurisdiction with the local government for land-disturbing activities and may take appropriate compliance action if the Commission determines that the local government has failed to take appropriate compliance action.

D. Exclusive Jurisdiction

The Parties agree that the Commission shall maintain exclusive jurisdiction to administer the SPCA for all land disturbing activities that:

1. Are outlined in North Carolina General Statute § 113A-56; or
2. Relate to oil and gas exploration and development on the well pad site.

Part III. Responsibilities and Expectations of the Local Government.

A. Enforcement

The Parties agree that the local government shall administer its own local program ordinances, through the following:

1. Enforce the provisions of the SPCA.
2. Administer the SPCA for all land-disturbing activity within its jurisdiction, including existing sites at the time the local government received program delegation. The Commission may continue to administer the SPCA over specific projects under enforcement action upon mutual agreement with the local government. The local program is not responsible for activities over which the Commission has exclusive jurisdiction.
3. Employ a sufficient number of qualified personnel. Qualified personnel shall be competent to review sedimentation and erosion control plans and conduct inspections of land-disturbing activities.
4. Provide adequate resources for plan review and compliance inspections.

B. Reporting

The Parties agree that the local government shall provide the following reports/information:

1. Monthly activity reports to the Commission in the form adopted by the Commission.
2. Copy of Notices of Violation to the appropriate regional office of the Division of Energy, Mineral, and Land Resources.
3. Current contact information for their local program to the Division of Energy, Mineral, and Land Resources.

C. Sediment and Erosion Control Plans for Land-Disturbing Activity Review

The Parties agree that the local government shall review erosion and sedimentation control plans for land-disturbing activity (hereinafter, "plans") submitted to its local program under the following standards:

1. Review plans within 30 days of receipt of a new plan and within 15 days of a revised plan.
2. Approve, approve with modifications, approve with performance reservations, or disapprove draft plans in conformance with the basic control objectives contained in 15A NCAC 04B .0106.
3. Notify in writing the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations or disapproved within 30 days of receipt of a new plan and within 15 days of a revised plan.
4. Include in written notifications of plan approval the following:
 - a. reference to NPDES General Stormwater Permit NCG 010000,
 - b. expiration date of the approval,
 - c. the right of periodic inspection, and
 - d. condition the approval upon the applicant's compliance with federal and State water quality laws, regulations and rules.
5. Enclose with all written permit notifications the following
 - a. NPDES General Stormwater Permit NCG 010000, and
 - b. Certificate of Approval for posting at the site of the land-disturbing activity.

D. Inspection

The Parties agree that the local government shall inspect all sites undergoing land-disturbing activity under the following standards:

1. Periodically and regularly inspect sites undergoing land-disturbing activity within its jurisdiction. Periodically and regularly means with sufficient frequency to effectively monitor compliance with the SPCA and rules adopted pursuant to the SPCA and the local erosion and sedimentation control ordinance.
2. Document all inspections in writing, including electronic documents.
3. Inspection reports shall include, at a minimum, all information in the model sedimentation inspection report developed by the Commission.

4. Maintain inspection records for active projects in accordance with State and local record retention policies.

E. Enforcement

The Parties agree that the local government shall enforce its local program ordinance under the following standards:

1. Issue Notices of Violation (hereinafter, “NOV”) for any significant violation of the SPCA, rules adopted pursuant to the SPCA, or the local erosion and sedimentation control ordinance documented in an inspection report. An NOV shall be issued to the persons responsible for the violations, pursuant to N.C. Gen. Stat. § 113A-61.1.
2. The NOV shall specify the following:
 - a. describe the violation with reasonable particularity
 - b. request that all illegal activity cease
 - c. the actions that need to be taken to comply with the SPCA and the local ordinance
 - d. a date by which the person must comply with the SPCA and the local ordinance
 - e. inform the violator that any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64 and the local ordinance
3. Undertake appropriate enforcement actions, including injunctive relief, or assessment of civil penalties for an initial penalty or a daily penalty for continuing violations.
4. Require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57(3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation.

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IN WITNESS HEREOF, the Parties enter into this Memorandum of Agreement, this the _____ day of _____ 2015.

SEDIMENTATION CONTROL COMMISSION

TOWN OF WAXHAW, NC

By: _____

Robin K. Smith

Chair

Dated: _____

By: Stephen E. Maher

Stephen E. Maher, Mayor

Dated: 10/26/2016

By: Warren Wood

Warren Wood, Town Manager

Dated: 10-27-16

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Warren Wood

Finance Officer

Approved as to Form

James Bernier, Jr.

Counsel to the Commission

Dated: _____

Approved as to Form

W. Chaplin Spencer, Jr.

W. Chaplin Spencer, Jr.

Attorney for Waxhaw, NC

Dated: 10-26-16

Appendix I.

NORTH CAROLINA GENERAL STATUTES

Sedimentation Pollution Control Act (Ch. 113A Art. 4)

(selected statutes)

§ 113A-54. Powers and duties of the Commission.

(d) In implementing the erosion and sedimentation control program, the Commission shall:

- (1) Assist and encourage local governments in developing erosion and sedimentation control programs and, as a part of this assistance, the Commission shall develop a model local erosion and sedimentation control ordinance. The Commission shall approve, approve as modified, or disapprove local programs submitted to it pursuant to G.S. 113A-60.

§ 113A-56. Jurisdiction of the Commission.

(a) The Commission shall have jurisdiction, to the exclusion of local governments, to adopt rules concerning land-disturbing activities that are:

- (1) Conducted by the State.
- (2) Conducted by the United States.
- (3) Conducted by persons having the power of eminent domain other than a local government.
- (4) Conducted by a local government.
- (5) Funded in whole or in part by the State or the United States.

(b) The Commission may delegate the jurisdiction conferred by G.S. 113A-56(a), in whole or in part, to any other State agency that has submitted an erosion

and sedimentation control program to be administered by it, if the program has been approved by the Commission as being in conformity with the general State program.

(c) The Commission shall have concurrent jurisdiction with local governments that administer a delegated erosion and sedimentation control program over all other land-disturbing activities. In addition to the authority granted to the Commission in G.S. 113A-60(c), the Commission has the following authority with respect to a delegated erosion and sedimentation control program:

- (1) To review erosion and sedimentation control plan approvals made by a delegated erosion and sedimentation control program and to require a revised plan if the commission determines that a plan does not comply with the requirements of this Article or the rules adopted pursuant to this Article.
- (2) To review the compliance activities of a delegated erosion and sedimentation control program and to take appropriate compliance action if the Commission determines that the local government has failed to take appropriate compliance action.

(1973, c. 392, s. 7; c. 1417, s. 4; 1987, c. 827, s. 130; 1987 (Reg. Sess., 1988), c. 1000, s. 4; 2002-165, s. 2.5; 2006-250, s.2.)

§ 113A-60. Local erosion and sedimentation control programs.

- (a) A local government may submit to the Commission for its approval an erosion and sedimentation control program for its jurisdiction, and to this end local governments are authorized to adopt ordinances and regulations necessary to establish and enforce erosion and sedimentation control programs. An ordinance adopted by a local government may establish a fee for the review of an erosion and sedimentation control plan and related activities. Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. An ordinance adopted by a local government shall at least meet and may exceed the minimum requirements of this Article and the rules adopted pursuant to this Article. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each unit of local government participating in the program, and a certified copy of each resolution must be filed with the Commission.
- (b) The Commission shall review each program submitted and within 90 days of receipt thereof shall

notify the local government submitting the program that it has been approved, approved with modifications, or disapproved. The Commission shall only approve a program upon determining that its standards equal or exceed those of this Article and rules adopted pursuant to this Article.

- (c) If the Commission determines that any local government is failing to administer or enforce an approved erosion and sedimentation control program, it shall notify the local government in writing and shall specify the deficiencies of administration and enforcement. If the local government has not taken corrective action within 30 days of receipt of notification from the Commission, the Commission shall assume administration and enforcement of the program until such time as the local government indicates its willingness and ability to resume administration and enforcement of the program.
- (d) A local government may submit to the Commission for its approval a limited erosion and sedimentation control program for its jurisdiction that grants the local government the responsibility only for the assessment and collection of fees and for the inspection of land-disturbing activities within the jurisdiction of the local government. The Commission shall be responsible for the administration and enforcement of all other components of the erosion and sedimentation control program and the requirements of this Article. The local government may adopt ordinances and regulations necessary to establish a limited erosion and sedimentation control program. An ordinance

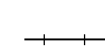



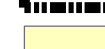
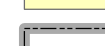
adopted by a local government that establishes a limited program shall conform to the minimum requirements regarding the inspection of land-disturbing activities of this Article and the rules adopted pursuant to this Article regarding the inspection of land-disturbing activities. The local government shall establish and collect a fee to be paid by each person who submits an erosion and sedimentation control plan to the local government. The amount of the fee shall be an amount equal to eighty percent (80%) of the amount established by the Commission pursuant to G.S. 113A-54.2(a) plus any amount that the local government requires to cover the cost of inspection and program administration activities by the local government. The total fee shall not exceed one hundred dollars (\$100.00) per acre. A local government that administers a limited erosion and sedimentation control program shall pay to the Commission the portion of the fee that equals eighty percent (80%) of the fee established pursuant to G.S. 113A-54.2(a) to cover the cost to the Commission for the administration and enforcement of other components of the erosion and sedimentation control program. Fees paid to the Commission by a local government shall be deposited in the Sedimentation Account established by G.S. 113A-54.2(b). A local government that administers a limited erosion and sedimentation control program and that receives an erosion control plan and fee under this subsection shall immediately transmit the plan to the Commission for review. A local government may create or designate agencies or subdivisions of the local government to administer the limited program.

Two or more units of local government may establish a joint limited program and enter into any agreements necessary for the proper administration of the limited program. The resolutions establishing any joint limited program must be duly recorded in the minutes of the governing body of each unit of local government participating in the limited program, and a certified copy of each resolution must be filed with the Commission. Subsections (b) and (c) of this section apply to the approval and oversight of limited programs.

- (e) Notwithstanding G.S. 113A-61.1, a local government with a limited erosion and sedimentation control program shall not issue a notice of violation if inspection indicates that the person engaged in land-disturbing activity has failed to comply with this Article, rules adopted pursuant to this Article, or an approved erosion and sedimentation control plan. The local government shall notify the Commission if any person has initiated land-disturbing activity for which an erosion and sedimentation control plan is required in the absence of an approved plan. If a local government with a limited program determines that a person engaged in a land-disturbing activity has failed to comply with an approved erosion and sedimentation control plan, the local government shall refer the matter to the Commission for inspection and enforcement pursuant to G.S. 113A-61.1.

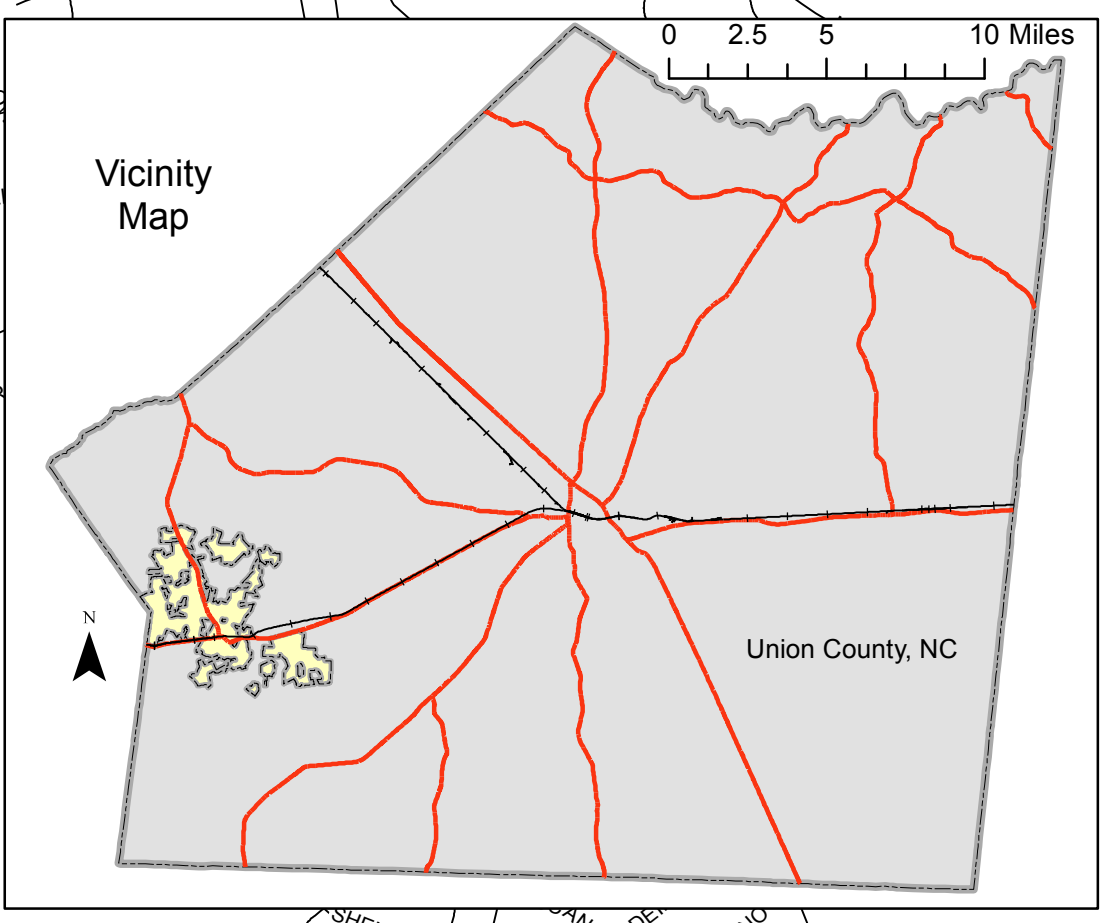
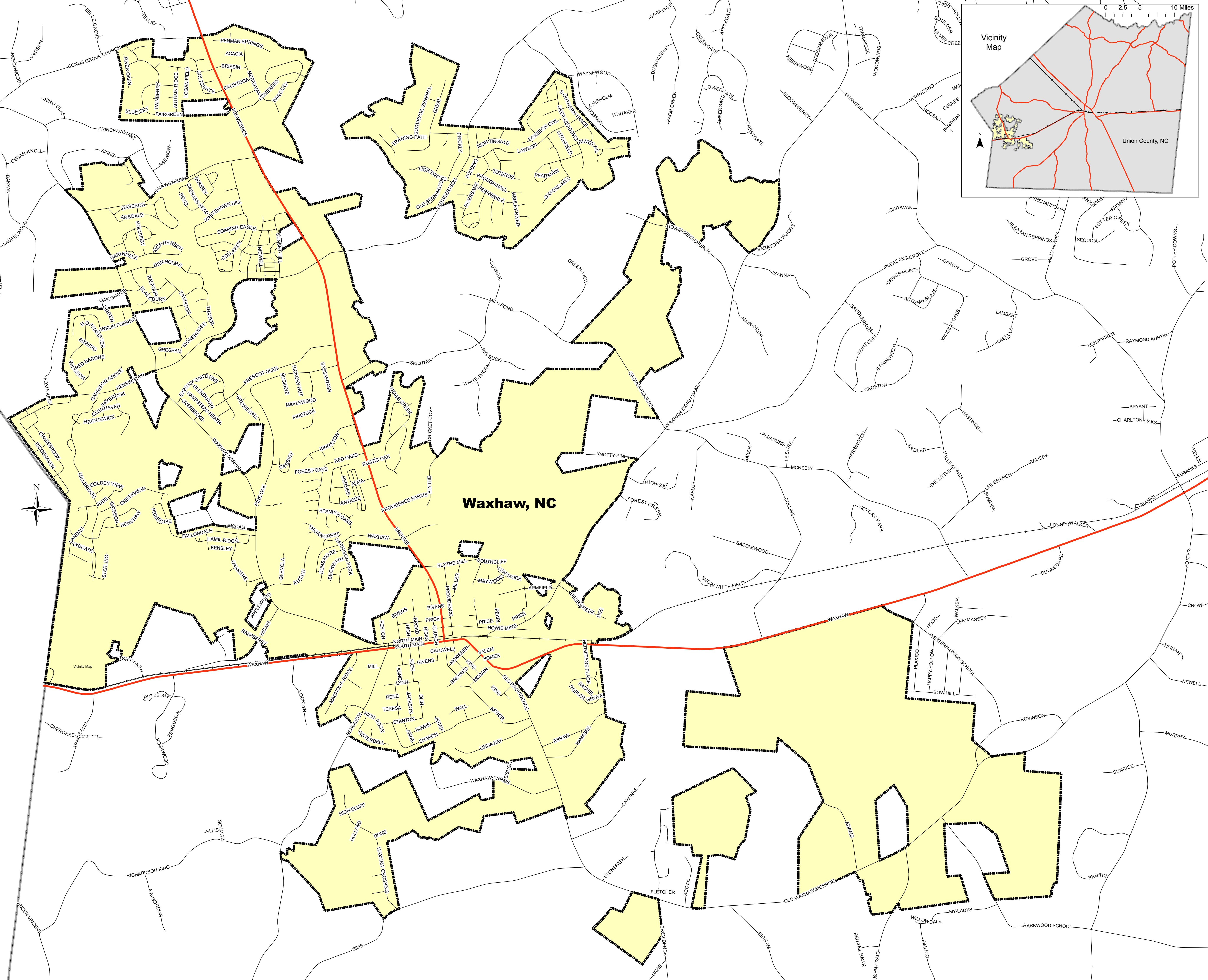
(1973, c. 392, s. 11; 1993 (Reg. Sess., 1994), c. 776, s. 7; 2002-165, s. 2.8; 2006-250, s. 3.)

Waxhaw Town Boundary

-  Rail Roads
-  Highways
-  Roads
-  Town Boundary Outline
-  Town Boundary
-  County Limits



Data Source & Disclaimer
 Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created October 2016.



**EROSION AND SEDIMENTATION
CONTROL ORDINANCE**



October 20, 2016

**AN ORDINANCE TO AMEND TITLE
XV OF THE TOWN OF WAXHAW
CODE OF ORDINANCES**

BE IT ORDAINED by the Board of Commissioners of the Town of Waxhaw that Title XV of the Town of Waxhaw Code of Ordinances be amended to add Chapter 159, Erosion and Sedimentation Control, as follows:

Section 1. TITLE XV, LAND USAGE

ADD:

CHAPTER 159: EROSION AND SEDIMENTATION CONTROL

PREAMBLE

159.01 PURPOSE

159.02 JURISDICTION

159.03 DEFINITIONS

159.04 EXCLUSIONS

159.05 GENERAL REQUIREMENTS AND OBJECTIVES

159.06 MANDATORY STANDARDS FOR LAND DISTURBING ACTIVITIES

159.07 DESIGN AND PERFORMANCE STANDARDS

159.08 STORMWATER OUTLET PROTECTION

159.09 BORROW AND WASTE AREAS

159.10 ACCESS AND HAUL ROADS

159.11 OPERATIONS IN LAKES OR NATURAL WATERCOURSES

159.12 RESPONSIBILITY FOR MAINTENANCE

159.13 ADDITIONAL MEASURES

159.14 EXISTING UNCOVERED AREAS

159.15 PERMITS

159.16 EROSION AND SEDIMENTATION CONTROL PLANS

159.17 TRANSFERS OF PLANS

159.18 INSPECTIONS AND INVESTIGATIONS

159.19 PENALTIES

159.20 INJUNCTIVE RELIEF

159.21 RESTORATION OF AREAS AFFECTED BY FAILURE TO COMPLY

159.22 APPEALS

159.23 SEVERABILITY

159.24 EFFECTIVE DATE

PREAMBLE

The sedimentation of streams, lakes and other waters of this State constitute a major pollution problem. Sedimentation occurs from the erosion or depositing of soil and other materials into the waters, principally from construction sites and road maintenance. The continued development of this Town will result in an intensification of pollution through sedimentation unless timely and appropriate action is taken. Control of erosion and sedimentation is deemed vital to the public interest and necessary to the public health and welfare, and expenditures of funds for erosion and sedimentation control programs shall be deemed for a public purpose. It is the purpose of this Ordinance to provide for the creation, administration, and enforcement of a program and for the adoption of minimal mandatory standards which will permit development of this Town to continue with the least detrimental effects from pollution by sedimentation.

159.01 PURPOSE. This Ordinance is adopted for the purpose of:

- (1) Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and
- (2) Establishing procedures through which these purposes can be fulfilled.

159.02 JURISDICTION.

This Ordinance is hereby adopted by the Board of Commissioners to apply to all areas within the corporate limits of the Town of Waxhaw.

The Commission shall have jurisdiction, to the exclusion of local governments, to adopt rules concerning land-disturbing activities that are:

- a. Conducted by the State.
- b. Conducted by the United States.
- c. Conducted by persons having the power of eminent domain other than a local government.
- d. Conducted by a local government.
- e. Funded in whole or in part by the State or the United States.
- f. Related to oil and gas exploration and development on the well pad site.

In addition, certain exclusions are set forth in Section 159.04.

Where a conflict exists between any limitation or requirement contained in this Ordinance and those in any other ordinance, regulation, or plan, the more restrictive limitation or requirement shall apply. Except as otherwise provided herein, this ordinance shall not repeal, abrogate, or revoke any other ordinance, regulation, or plan.

159.03 DEFINITIONS.

The words and phrases used in this Ordinance shall have the meaning assigned in this Section provided, unless the context clearly indicates otherwise. These definitions are derived from the North Carolina Sedimentation Control regulations, 15A NCAC § 4A.0105 and the Sedimentation Pollution Control Act of 1973, NCGS § 113A-52.

Accelerated Erosion – means any increase over the rate of natural erosion as a result of land disturbing activity.

Act – means the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it, as amended from time to time.

Adequate Erosion Control Measure, Structure, or Device – means one which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity, as such controls are specified in the Ordinance.

Affiliate – a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control of another person.

Being Conducted – means a land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.

Board of Commissioners – means the Town of Waxhaw Board of Commissioners.

Borrow – means fill material which is required for on-site construction and is obtained from other locations.

Buffer Zone – means the strip of land adjacent to a lake or natural watercourse.

Town of Waxhaw Erosion Control Specialist/ Erosion Control Specialist/ Specialist – includes the Town of Waxhaw Development Services Director, who is principally responsible for the administration of this Section, or his duly authorized designee. This term shall also include any persons, agents or other representatives of the town as authorized by the Development Services Director.

Completion of Construction or Development – means that no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

Commission/NCSCC – means the North Carolina Sedimentation Control Commission.

Department - means the North Carolina Department of Environmental Quality.

Development Services Department – means the Town of Waxhaw Development Services Department

Discharge Point – means that point at which runoff leaves a tract.

District/SWCD – means the Union Soil and Water Conservation District (also referred to as the “SWCD”) created pursuant to Chapter 139 of the North Carolina Statutes.

Energy Dissipater – means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity

flow.

Erosion – means the wearing a way of land surface by the action of wind, water, gravity, or any combination thereof.

Ground Cover – means any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

Lake or Natural Watercourse – means any stream, river, brook, swamp, creek, run, branch, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

Land-Disturbing Activity – means any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highways and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

Local Government – means any county, village, town, or city, or any combination of counties, villages, towns and cities acting through a joint program with the Town pursuant to the provisions of the Act.

NCSCC – means the North Carolina Sedimentation Control Commission.

Natural Erosion – means the wearing away of the earth's surface by water, wind or other natural agents under natural environmental conditions undisturbed by man.

Parent – an affiliate that directly or indirectly, through one or more intermediaries, controls another Person.

Person – means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

Person Conducting Land-Disturbing Activity – means any person who may be held responsible for a violation unless expressly provided otherwise by this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.

Person Responsible for the Violation – as used in this Ordinance and G.S. 113A-64 means:

- (1) The developer or other person who has or holds themselves out as having financial or operational control over the land-disturbing activity; and/or
- (2) The landowner or person in possession or control of the land who has directly or indirectly allowed the land-disturbing activity or has benefited from it or has failed to comply with any provision of this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.

Phase of Grading – means one of two types of grading, rough or fine.

Plan – means a complete Erosion and Sedimentation Control Plan.

Sediment – means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

Sedimentation – means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

Siltation – means sediment resulting from accelerated erosion which is removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited in or is in suspension in water.

Storm Drainage Facilities – means the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey storm water through and from a given drainage area.

Storm Water Runoff – means the direct runoff of water resulting from precipitation in any form.

Subsidiary – an Affiliate that is directly or indirectly, through one or more intermediaries, controlled by another person.

SWCD/ Union SWCD – means the Union Soil and Water Conservation District.

Ten-Year Storm – means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.

Town – means Town of Waxhaw.

Tract – means all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

Twenty-five Year Storm – means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.

Two-Year Storm – means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 2 years, and of a duration which will produce the maximum peak rate of runoff, from the Watershed of interest under average antecedent wetness conditions.

Uncover(s)(ed)(ing) – means the removal of ground cover from, on, or above the soil surface.

Undertaken – means the initiating of an activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract.

Velocity(ies) – means the average speed of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

Waste – means surplus materials resulting from on-site construction and disposed of at locations either on or off site other than the initial source of the materials.

Watershed – means the region drained by or contributing water to a stream, lake or other body of water.

Working Days – means days exclusive of Saturday and Sunday during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

159.04 EXCLUSIONS.

This Section shall not apply to the following land-disturbing activities:

- 1) Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
 - a. Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.
 - b. Dairy animals and dairy products.
 - c. Poultry and poultry products.
 - d. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.
 - e. Bees and apiary products.
 - f. Fur producing animals.
 - g. Mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.
- (2) Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the Department.
- (3) Activities for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.
- (4) For the duration of an emergency, activities essential to protect human life, including activities specified in an executive order issued under G.S. 166A-19.30(a)(5).
- (5) Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.
- (6) Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2

159.05 GENERAL REQUIREMENTS AND OBJECTIVES.

(A) **Plan Required.** No Person shall initiate any land-disturbing activity which uncovers more than twelve thousand (12,000) square feet of land for commercial, industrial, or subdivision

development without having a plan approved by the Erosion Control Specialist. Land-disturbing activities resulting from single-family residential development on an individual lot which disturbs one (1) acre of land or less are excluded from plan submittal and approval, provided that erosion control devices are installed in accordance with the details for residential lot development found in the Town of Waxhaw Engineering, Standards and Procedures Manual. Single-family residential development exceeding one (1) acre of land disturbed will be required to submit for plan approval. Land-disturbing activities resulting from single-family residential development on multiple contiguous lots which disturb a total of one (1) acre of land or less may conduct such activity with a single approved plan encompassing all the lots or with separate approved ESC Installation and Maintenance Agreements for each lot.

(B) ESC Installation and Maintenance Agreement Required. No person shall initiate any Land-Disturbing Activity for the purpose of new single-family residential development on an individual lot to a maximum of one (1) acre, without having an ESC Installation and Maintenance Agreement approved by the Erosion Control Specialist.

(C) Protection of Property. Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.

(D) Basic Control Objectives. A plan may be disapproved pursuant to Section 159.16 of this Ordinance if the plan fails to address the following control objectives:

- (1) Identify Critical Areas – On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.
- (2) Limit Time of Exposure – All land-disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time.
- (3) Limit Exposed Areas – All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.
- (4) Control Surface Water – Surface water runoff originating upgrate of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.
- (5) Control Sedimentation – All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.
- (6) Manage Storm Water Runoff – When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity to the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

159.06 MANDATORY STANDARDS FOR LAND DISTURBING ACTIVITIES.

No land-disturbing activity subject to the control of this Ordinance shall be undertaken except in accordance with the following mandatory standard:

(A) Buffer Zone.

- (1) No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity.
- (2) Unless otherwise provided, the width of the buffer zone begins and is measured landward from the normal pool elevation of impounded structures (lakes) to the nearest edge of the disturbed area and/ or five feet from the edge of the top of the bank of streams or rivers to the nearest edge of the disturbed area. Natural or artificial means of confining visible siltation must be placed, constructed or installed outside the undisturbed buffer zone.
- (3) For any watercourse, where more than one stream buffer width is imposed by Town of Waxhaw Code of Ordinance or other local, state or federal law(s), rule(s), or regulation(s), the greater buffer width stipulated shall apply.

(B) Graded Slopes and Fills. The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 14 calendar days of completion of any phase of grading, be planted or otherwise be provided with ground cover, devices, or structures sufficient to restrain erosion.

(C) Ground Cover. Whenever more than twelve thousand (12,000) square feet of land is uncovered or new residential development on an individual lot is initiated, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Provisions for a ground cover sufficient to restrain erosion must be accomplished within- 15 working days or 60 calendar days, whichever is shorter following completion of construction or development.

(D) Prior Plan Approval. No Person shall initiate any land-disturbing activity on a tract if more than twelve thousand (12,000) square feet of land is to be uncovered, excluding single-family residential development in accordance with Subsection 159.05(B), unless, thirty or more days prior to initiating the activity, a plan is filed with and approved by the Erosion Control Specialist. The Erosion Control Specialist shall forward to the North Carolina Director of the Division of Water Quality a copy of each plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de watering or lowering the water table of the tract.

(E) Zoning Permits. Any person requesting a grading permit in association with a land-disturbing activity on a tract which involves the uncovering of more than twelve thousand (12,000) square feet of land or new residential development on an individual lot, shall be required to have an approved Erosion and Sedimentation Control Plan or ESC Installation and Maintenance Agreement in accordance with this Ordinance.

159.07 DESIGN AND PERFORMANCE STANDARDS.

Erosion and sedimentation control measures, structures, and devices shall be so planned,

designed, and constructed as to provide protection from the calculated maximum peak rate of storm water runoff from the ten-year storm. Storm water runoff rates shall be calculated using the procedures in the USDA, Natural Resources Conservation Service's "National Engineering Field Manual for Conservation Practices," or other acceptable calculation procedures.

159.08 STORMWATER OUTLET PROTECTION.

(A) Persons shall conduct land-disturbing activity so that the post-construction velocity of the ten-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:

- (1) The velocity established in Table 159.08-1 of this Section; or
- (2) The velocity of the ten-year storm runoff in the receiving watercourse prior to the land-disturbing activity.

(B) If the conditions of Section 159.08 (A) cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to land-disturbing activity" velocity by ten percent (10%).

(C) **Acceptable Management Measures.** Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The Town recognizes that the management of storm water runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives are to:

- (1) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious.
- (2) Avoid increases in storm water runoff discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections.
- (3) Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities to the point of discharge. These may range from simple rip-rapped sections to complex structures.
- (4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining.

(D) **Exceptions.** This rule shall not apply where it can be demonstrated that storm water discharge velocities will not create an erosion problem in the receiving watercourse.

(E) Maximum permissible velocity for storm water discharges shall be regulated in accordance with Table 159.08-1.

Table 159.08-1 Maximum Permissible Velocities

<u>Material</u>	<u>Feet/ Second</u>	<u>Meters/ Second</u>
Fine sand (noncolloidal)	2.5	0.8
Sandy loam (noncolloidal)	2.5	0.8
Silt loam (noncolloidal)	3.0	0.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

159.09 BORROW AND WASTE AREAS.

When the Person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the North Carolina Department of Environment and Natural Resources's Division of Solid Waste Management, shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

159.10 ACCESS AND HAUL ROADS.

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

159.11 OPERATIONS IN LAKES OR NATURAL WATERCOURSES.

Land-disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. The relocation of a lake, stream or other watercourse where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the lake, stream or other watercourse flow characteristics, except when justification acceptable to the Town for significant alteration to flow characteristic is provided.

159.12 RESPONSIBILITY FOR MAINTENANCE.

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this Ordinance or the Act, or any order adopted pursuant to this Ordinance or the Act. After site development, the landowner or person in possession of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

159.13 ADDITIONAL MEASURES.

Whenever the Erosion Control Specialist determines that significant sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action.

159.14 EXISTING UNCOVERED AREAS.

(A) All uncovered areas existing on the effective date of this Ordinance which resulted from land-disturbing activity which exceed one (1) acre of land, that are subject to continued accelerated erosion and are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.

(B) The Erosion Control Specialist will serve upon the landowner or other person in possession or control of that land a written notice of violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice will set forth the measures needed to comply, and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the Erosion Control Specialist shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonable and attainable time limits of compliance.

(C) The Erosion Control Specialist reserves the right to require preparation and approval of a plan in any instance where extensive control measures are required.

159.15 PERMITS.

(A) No person shall undertake any land-disturbing activity subject to this Ordinance without having first obtained a Plan Certificate and Letter of Approval or ESC Installation and Maintenance Agreement Approval from the Erosion Control Specialist, except that no Plan Certificate and Letter of Approval or ESC Installation and Maintenance Agreement Approval shall be required for any Land-Disturbing Activity:

- (1) For the purpose of fighting fires; or
- (2) For the stock piling of raw or processed sand, stone, or gravel in material processing plants and storage yards, provided that sediment control measures have been utilized to protect against off-site damage; or
- (3) That does not disturb more than twelve thousand (12,000) square feet in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

(B) Although a Plan Certificate and Letter of Approval is not required for land-disturbing activity comprising less than twelve thousand (12,000) square feet of land or less than one (1) acre for residential projects, such activity shall be subject to all other requirements of this Ordinance and any other applicable standards or ordinances adopted by the Town of Waxhaw.

(C) Submittals for erosion and sediment control plan approval and erosion control inspections shall be subject to any and all relevant fees as adopted by the Board of Commissioners and prescribed in the Town of Waxhaw Code of Ordinances. Fees shall accompany plan submittals, otherwise the submittal shall be determined incomplete and shall be returned to the applicant.

159.16 EROSION AND SEDIMENTATION CONTROL PLANS.

(A) Persons conducting land-disturbing activity shall be responsible for preparing a plan for all land-disturbing activities subject to this Ordinance whenever the proposed activity is to be undertaken on a tract disturbing more than twelve thousand (12,000) square feet of land, excluding single-family residential development addressed in Section 159.05 (B).

(B) Seven complete copies of the plan shall be filed with the Control Specialist in the office of the Town of Waxhaw Development Services Department at least 30 days prior to the commencement of the proposed activity. A fee, made payable to the Town of Waxhaw, shall be charged for each plan review. Such fee shall be in accordance with a fee schedule adopted by the Town of Waxhaw Board of Commissioners. No plan shall be considered complete unless accompanied by such fee and a performance bond in the form of a certified check, cash or irrevocable letter of credit, in an amount deemed sufficient by the Engineering Department to cover all costs of protection or other improvements required to establish protective cover on the site in conformity with this ordinance. The performance bond shall remain effective until work has been completed, inspected and approved by the Development Services Department.

(C) The Erosion Control Specialist shall transmit a copy of the complete plan to the Union Soil and Water Conservation District (SWCD) for their review. The SWCD shall be given up to twenty (20) days to make comment on the plan. Failure of the SWCD to submit its comments to the Erosion Control Specialist within such time period shall not delay final action on the proposed plan by the Erosion Control Specialist.

(D) The Erosion Control Specialist shall render a decision on a plan within thirty (30) days of submittal. The Erosion Control Specialist shall condition approval of a draft plan upon the applicants' compliance with local, state and federal water quality laws, regulations, ordinances and rules. Such decision shall be approval, approval with modifications, approval with performance reservations, or disapproval. Failure to approve, approve with modifications or performance reservations, or disapprove a complete plan within thirty (30) days of receipt shall be deemed approval.

(E) Any final decision made pertaining to the proposed plan shall be filed in the Town of Waxhaw Development Services Department (or as otherwise designated by the Town) and sent to the applicant by first class mail.

(F) Denial of a plan or a revised plan must specifically state in writing the reasons for disapproval. The Erosion Control Specialist must approve, approve with modifications, or disapprove a revised plan within fifteen (15) days of receipt, or it is deemed to be approved.

(G) Plan approval shall expire three (3) years following the date of approval, if no land-disturbing activity has been undertaken, or if no land-disturbing activity has occurred with three (3) years. If, following commencement of a land-disturbing activity pursuant to an approved plan, the Erosion Control Specialist determines that the plan is inadequate to meet the requirements of this ordinance, the Erosion Control Specialist may require any revision of the plan that is necessary to comply with this ordinance.

(H) Persons conducting land-disturbing activities which are addressed by Section 159.16 shall have secured a Plan Certificate and Letter of Approval (in accordance with procedures described herein) before any land-disturbing activities commence. A copy of the

approved plan and the Certificate of Plan Approval shall be maintained at the job site by the persons conducting the land-disturbing activity. After approving the plan, if the Erosion Control Specialist, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Specialist may require that a revised plan be submitted. Pending the preparation and approval of the revised plan, work shall cease or shall continue under conditions outlined by the Erosion Control Specialist.

(I) A plan may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or their attorney-in-fact. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and of the owner of the land or their registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance. If the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land disturbing activity.

(J) The person submitting a plan to the Erosion Control Specialist is, prior to submission of the plan, solely and exclusively responsible for determining whether the proposed land-disturbing activities require any form of state or federal environmental certification or documentation. Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (G.S. 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for Town review. The Erosion Control Specialist, upon discovery that an environmental certification or documentation is required but was not obtained, shall promptly notify the person submitting the plan that the thirty (30) day time limit for review of the plan pursuant to Section 159.16 (D) of this Ordinance shall not begin until a complete environmental document or certificate is available for review by the Erosion Control Specialist. However, no term or condition in the Ordinance shall be interpreted to place the burden for determining the necessity for an environmental certificate or documentation upon the Erosion Control Specialist, and the person submitting the plan, as well as any other persons specified by law, rule or regulation, shall remain solely and exclusively responsible for such determination.

(K) The plan required by this section shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this Ordinance. Any erosion and sediment control measures and/or devices must be drawn to scale and contour when deemed applicable by the Erosion Control Specialist. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation shall be found in the Town of Waxhaw Engineering, Standards and Procedures Manual. The Erosion Control Specialist shall automatically disapprove a plan if it is determined that implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters.

(L) A plan may be disapproved upon a finding that an applicant, or a parent, subsidiary, or other affiliate of the applicant:

- (1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the NCSCC or the

Town pursuant to the Act and has not complied with the notice within the time specified in the notice.

- (2) Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act by the time the payment is due.
- (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act; or
- (4) Has failed to substantially comply with applicable local, State or Federal laws, regulations, rules or ordinances adopted pursuant to the Act. For purposes of this subsection 159.16 (L), an applicant's record may be considered for only the two (2) years prior to the application date.

(M) Applications for amendment of a plan in written and/or graphic form may be made at any time under the same format as the original application. Until such time as said amendment is approved by Erosion Control Specialist, land-disturbing activity shall not proceed except in accordance with the plan as originally approved.

(N) Any person engaged in land-disturbing activity who fails to file a plan in accordance with this Ordinance, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this Ordinance.

159.17 TRANSFER OF PLANS.

- (A) The Town of Waxhaw may transfer a plan if all of the following conditions are met:
- (1) The successor-owner of the property submits to the local government a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.
 - (2) The local government finds all of the following:
 - a. The plan holder is one of the following:
 - (i) A natural person who is deceased.
 - (ii) A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.
 - (iii) A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.
 - (iv) A person who has sold the property on which the permitted activity is occurring or will occur.
 - b. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.
 - c. The successor-owner is the sole claimant of the right to engage in the permitted activity.
 - d. There will be no substantial change in the permitted activity.
- (B) The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.
- (C) The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.
- (D) Notwithstanding changes to law made after the original issuance of the plan, the local government may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the local government from requiring a revised plan pursuant to Section 159.16(G).

(E) Denials of transfer requests may be appealed pursuant to Section 159.22(A)

159.18 INSPECTIONS AND INVESTIGATIONS.

(A) The Erosion Control Specialist will periodically inspect land-disturbing activities to ensure compliance with the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance, and to determine whether the measures required in the plan are effective in controlling erosion and sediment resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each plan. The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with 159.06 (C). The person who performs the inspection shall maintain and make available a record of the deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan.

(B) No person shall willfully resist, delay, or obstruct the Erosion Control Specialist, while inspecting or attempting to inspect a land-disturbing activity under this section.

(C) If it is determined that a person engaged in the land-disturbing activity has failed to comply with the Act, this Ordinance, or rules, or orders adopted or issued pursuant to this Ordinance, or has failed to comply with an approved plan, a notice of violation shall be served upon that person. The notice shall be served by registered or certified mail or by any means authorized under GS 1A-1, Rule 4. The Notice of Violation shall specify a date by which, or a cure period within which, the person must comply with this Ordinance, and inform the person of the actions that need to be taken to comply with this Ordinance. The Notice shall set forth the measures necessary to achieve compliance with the plan, specify a reasonable time period within which such measures shall be completed, and warn that failure to correct the violation within the time period stated is subject to a civil penalty and other enforcement actions. However, no time period for compliance need be given for failure to submit a plan for approval, for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his official duties, or for the penalty that may be assessed pursuant to this Ordinance for the day the violation is assessed by the Erosion Control Specialist. Any person who fails to comply within the time specified in the Notice is subject to additional civil and criminal penalties for a continuing violation as provided in this Ordinance.

If the person engaged in the land-disturbing activity has not received a previous notice of violation under this section, the Erosion Control Specialist shall deliver the notice of violation in person and shall offer assistance in developing corrective measures. Assistance may be provided by referral to a technical assistance program in the Department, referral to a cooperative extension program, or by the provision of written materials such as Department guidance documents. If the Erosion Control Specialist is unable to deliver the notice of violation in person within 15 days following discovery of the violation, the notice of violation may be served in the manner prescribed for service of process by G.S. 1A-1, Rule 4, and shall include information on how to obtain assistance in developing corrective measures.

(D) The Erosion Control Specialist shall have the power to conduct such investigation as may be reasonably deemed necessary to carry out duties as prescribed in this ordinance, and for this

purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity. No person shall refuse entry or access to the Erosion Control Specialist who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out their official duties as provided in this Ordinance.

(E) The Erosion Control Specialist shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

(F) On any tract on which five (5) or more acres are disturbed, the person conducting land-disturbing activity will be responsible for self-inspection of erosion and sedimentation control facilities at least once every seven (7) days or within 24 hours of a storm event of greater than 0.5 inches of rain per 24-hour period.

159.19 PENALTIES; STOP WORK ORDERS .

(A) Civil Penalties.

- (1) Any person who violates any of the provisions of the applicable State, Federal or local laws, rules, regulations or ordinances, including this Ordinance, or rules or orders adopted or issued pursuant to applicable State, Federal or local laws, rules, regulations or ordinances, including this Ordinance, or who initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty for a violation is five thousand dollars (\$5,000). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this subsection for any previous violation and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is twenty-five thousand dollars (\$25,000).
- (2) The Erosion Control Specialist shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty, the reason for assessing the penalty, the option available to that person to request a remission of the civil penalty under G.S. 113A-64.2, the date of the deadline for that person to make the remission request regarding this particular penalty, and, when that person has not been assessed any civil penalty under this section for any previous violation, the date of the deadline for that person to abate continuing environmental damage resulting from the violation in order to be subject to the maximum cumulative total civil penalty under subdivision (1) of this subsection. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Secretary Town of Waxhaw within 30 days after it is due, the Erosion Control Specialist may institute a civil action to recover the amount of the assessment. The civil action may be brought in the

superior court of any county where the violation occurred or the violator's residence or principal place of business is located. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

- (3) In determining the amount of the penalty, items which may be considered are the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by non-compliance, whether the violation was committed willfully and the prior record of the violator in complying with or failing to comply with this Ordinance.
- (4) The clear proceeds of civil penalties collected by the Town must be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S 115C-457.2.

(B) Criminal Penalties. Any Person who knowingly or willfully violates any provision of this Ordinance, or rule, regulation or order adopted or issued pursuant to this Ordinance, or who knowingly or willfully initiates or continues a land-disturbing activity for which a plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed \$5,000.00.

(C) Stop Work Orders

- (1) The Erosion Control Specialist may issue a stop-work order if he finds that a land-disturbing activity is being conducted in violation of this Section or of any rule adopted or order issued pursuant to this Section, that the violation is knowing and willful, and that either:
 - (a) Off-site sedimentation has eliminated or severely degraded a use in a lake or natural watercourse or that such degradation is imminent.
 - (b) Off-site sedimentation has caused severe damage to adjacent land or that such damage is imminent.
 - (c) The land-disturbing activity is being conducted without an approved plan.
- (2) The stop-work order shall be in writing and shall state what work is to be stopped and what measures are required to abate the violation. The order shall include a statement of the findings made by the Town of Waxhaw pursuant to subsection (a) of this section, and shall list the conditions under which work that has been stopped by the order may be resumed. The delivery of equipment and materials which does not contribute to the violation may continue while the stop-work order is in effect. A copy of this section shall be attached to the order.
- (3) The stop-work order shall be served by the sheriff of Union County or by some other person duly authorized by law to serve process as provided by G.S. 1A-1, Rule 4, and shall be served on the person at the site of the land-disturbing activity who is in operational control of the land-disturbing activity. The sheriff or other person duly authorized by law to serve process shall post a copy of the stop-work order in a conspicuous place at the site of the land-disturbing activity.

The Town of Waxhaw shall also deliver a copy of the stop-work order to any person that the Town of Waxhaw has reason to believe may be responsible for the violation.

- (4) The directives of a stop-work order become effective upon service of the order. Thereafter, any person notified of the stop-work order who violates any of the directives set out in the order may be assessed a civil penalty as provided in Section 159.18(A). A stop-work order issued pursuant to this section may be issued for a period not to exceed five days.
- (5) The Erosion Control Specialist shall designate an employee (which may be the Erosion Control Specialist) to monitor compliance with the stop-work order. The name of the employee so designated shall be included in the stop-work order. The employee so designated, or the Erosion Control Specialist, shall rescind the stop-work order if all the violations for which the stop-work order are issued are corrected, no other violations have occurred, and all measures necessary to abate the violations have been taken. The Erosion Control Specialist shall rescind a stop-work order that is issued in error.
- (6) The issuance of a stop-work order shall be a final agency decision subject to judicial review in the same manner as an order in a contested case pursuant to Article 4 of Chapter 150B of the General Statutes. The petition for judicial review shall be filed in the superior court of the county in which the land-disturbing activity is being conducted.
- (7) As used in this section, days are computed as provided in G.S. 1A-1, Rule 6.
- (8) The Attorney for the Town of Waxhaw shall file a cause of action to abate the violations which resulted in the issuance of a stop-work order within two business days of the service of the stop-work order. The cause of action shall include a motion for an ex parte temporary restraining order to abate the violation and to effect necessary remedial measures. The resident superior court judge, or any judge assigned to hear the motion for the temporary restraining order, shall hear and determine the motion within two days of the filing of the complaint. The clerk of superior court shall accept complaints filed pursuant to this section without the payment of filing fees. Filing fees shall be paid to the clerk of superior court within 30 days of the filing of the complaint.

159.20 INJUNCTIVE RELIEF.

(A) Whenever the Erosion Control Specialist has reasonable cause to believe that any person is violating or threatening to violate this Ordinance or any term, condition, or provision of an approved plan, he/ she may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court in Union County.

(B) Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order of judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

159.21 RESTORATION OF AREAS AFFECTED BY FAILURE TO COMPLY.

The Erosion Control Specialist may require a person who engaged in a land- disturbing activity and failed to retain sediment generated by the activity as required by subsection 159.06 (C) to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this Ordinance.

159.22 APPEALS.

Procedures which constitute the appeals process, related to the following actions:

(A) Plan Approval With Modifications or Plan Disapproval. The appeal of an approval, approval with modifications or disapproval of a plan made by the Erosion Control Specialist with regard to this Ordinance shall be governed by the following provisions:

- (1) The order of approval, disapproval, or modification of any proposed Plan made by the Erosion Control Specialist shall entitle the Person challenging such decision to a public hearing before the Town of Waxhaw Board of Adjustment if such Person submits written demand for a hearing and completes the necessary forms and pays the required appeals fee within fifteen (15) days following the date the decision was filed in the Town of Waxhaw Development Services Department office or mailed to the applicant, whichever date is later. Such written request and completed forms shall be submitted to the Clerk of the Board of Adjustment or his designee. Forms shall be available at the Town of Waxhaw Town Hall, or as directed by the Erosion Control Specialist. A fee for such public hearing shall be in accordance with a fee schedule adopted by the Town of Waxhaw Board of Commissioners. No request shall be considered complete unless accompanied by such fee.
- (2) Notice of the Board of Adjustment public hearing shall be sent by first class mail to the applicant at least ten (10) days prior to the public hearing and to any person who has submitted written request to receive such notice at least ten (10) days prior to the date of the public hearing. The hearing shall be held no later than thirty (30) days after the date of receipt of said written request.
- (3) A hearing shall be conducted by the Board of Adjustment. A concurring vote per the Board of Adjustment's officially adopted by-laws will be necessary to reverse any order, requirement, decision, or determination of any official charged with the enforcement of this Ordinance, or to decide in favor of an appellant any matter upon which is required to pass or to grant variance from the provisions of this Ordinance. The Town shall keep minutes of the proceedings, showing the votes of each member upon each question and the attendance of each member at such hearings. The final disposition of the Town shall be based on findings of fact.
- (4) A party dissatisfied with the decision of the Board of Adjustment following the public hearing shall appeal such decision to the NCSCC pursuant to Title 15, Chapter 4B, Section .0018(d) of the North Carolina Administrative Code and as provided by NC GS 113A-61(c).

(B) Plan Disapproval Due To Prior Violation, Unpaid Penalties, or Non-compliance. In the event that a plan is disapproved pursuant to Subsection 159.16 (L) of this Ordinance, the Town of Waxhaw Control Specialist shall notify the Director of the Division of Land Resources of such disapproval, along with the reasons therefore, within ten (10) days after the date of the

decision. The Erosion Control Specialist shall advise the applicant and the Director of the Division of Land Resources in writing as to the specific reasons that the plan was disapproved. The applicant may appeal the Erosion Control Specialist's disapproval of the plan pursuant to Subsection 159.16 (L) of this Ordinance directly to the NCSCC.

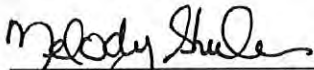
(C) Issuance of Notice of Violation, Penalties, or Order of Restoration. The appeal of Issuance of Notice of Violation, Assessment of Civil Penalty, or Order of Restoration made by the Town of Waxhaw with regard to this Ordinance shall be governed by the following provisions:

- (1) The issuance of a notice of violation, assessment of a civil penalty, or an order of restoration by the Erosion Control Specialist shall entitle the person alleged to be in violation of the Ordinance (petitioner) to appeal within thirty days by filing a petition for a contested case with the State Office of Administrative Hearings under Article 3 of Chapter 150B.

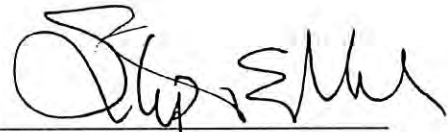
159.23 SEVERABILITY. If any section or specific provision or standard of this ordinance is found by a court to be unconstitutional or invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, or standard of these regulations, except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

159.24 EFFECTIVE DATE. This ordinance shall become effective upon approval of the North Carolina Sedimentation Control Commission.

Attest:



Melody Shuler, Town Clerk



Stephen E. Maher, Mayor





TOWN OF WAXHAW, NC FEE SCHEDULE
*Effective: Effective Upon Board of
 Commissioners Approval*

DEVELOPMENT SERVICES DEPARTMENT FEES	
Technology Fee for ALL Permits and Applications	10% of Fee
Variance or Appeal Request	\$330.00
Rezoning	
▪ Less than 2 acres	\$300.00
▪ 2 – 10 acres	\$500.00
▪ Greater than 10 acres	\$1,000.00 + \$25.00 per acre
Conditional Zoning	
▪ Less than 2 acres	\$400.00
▪ 2 -10 acres	\$800.00
▪ Greater than 10 acres	\$1,500.00 + \$25.00 per acre
Conditional Use Permit	
▪ Less than 2 acres	\$400.00
▪ 2 – 10 acres	\$800.00
▪ Greater than 10 acres	\$1,500.00 + \$25.00 per acre
Amendment to approved CU Permit / Conditional Zoning	
▪ Minor amendment	\$100.00
▪ Major amendment (Less than 2 acres)	\$200.00
▪ Major amendment (2-10 acres)	\$400.00
▪ Major amendment (Greater than 10 acres) acre	\$750.00 + \$15.00 per acre
Text Change Request	
▪ Less than 3 paragraphs	\$300.00
▪ More than 3 paragraphs	\$500.00
Sign Permit	
▪ Permanent compliance)	\$40.00 (includes zoning
▪ Temporary (excludes civic signs & civic banners)	\$11.00
▪ Master Sign Plan	\$150.00
▪ Master Sign Plan Amendment	\$50.00
Zoning Use	* \$30.00
Zoning Permit (New Construction)	
▪ Residential (One & Two Family Dwellings)	\$85.00
▪ Other than One & Two Family Dwellings	\$275.00
▪ Temporary Structure	\$110.00 per 6 months
Zoning Permit (Accessory Structure or Additions)	
▪ Minor additions, no more than 25% or 500 SF unheated	\$30.00

Proposed Fees In Red

▪ Minor additions, no more than 25% or 500 SF heated	\$55.00
▪ Major Addition	\$85.00
Certificate of Zoning Compliance	
▪ Residential (One & Two Family Dwellings)	\$85.00
▪ Other than One & Two Family Dwellings	\$275.00
Floodplain Development Permit	\$125.00
Expedition Fee	\$50.00
Burn Permit	\$10.00
Copy of Storm Water Manual	\$40.00
Zoning Verification Letter	\$25.00
Copy of 24" x 36" Map or smaller (black & white)	\$5.00
Copy of 24" x 36" Map or smaller (color)	\$7.50
Copy of Map larger than 24" x 36" (black & white)	\$8.00
Copy of Map larger than 24" x 36" (color)	\$12.00
<u>Subdivision Review Fees</u>	
Preliminary Subdivision Plan	
▪ Residential - Less than 50 lots	\$250.00
▪ Residential - 50 or more lots	\$500.00
▪ Non-Residential	\$500.00
Preliminary Construction Plan Review	
▪ Major Subdivision	\$275.00 per lot
Final Plat Review	
▪ Major Subdivision	\$55.00 per lot
▪ Minor Subdivision (up to 10 acres)	\$55.00 per lot
<u>Site Plan Review Fees (Sites Other than One & Two Family Dwellings)</u>	
<u>Additions/Renovations</u>	
Up to 5,000 sq. ft.	\$250.00
5,001 to 30,000 sq. ft.	\$500.00
Over 30,000 sq. ft.	\$750.00
<u>New Development</u>	
Less than 1 acre	\$1,100.00
1 to 10 acres	\$1,100.00 plus \$200 per acre
10+acres	\$1,650.00 plus \$200 per acre
Surcharge per detention on site	\$550.00
Surcharge for Traditional Neighborhood Development	\$550.00
Sediment and Erosion Control Reviews and Inspections	

Proposed Fees In Red

Erosion Control Permit Commercial above 12,000 sq. ft. disturbed, or any > 1 acre tract disturbed area	\$500 first acre disturbed or portion thereof plus \$100 for any additional acre disturbed, or portion thereof
Revised Plan Review after Erosion Control Plan Approval	\$200
Single-family Residential Lot Inspection/Compliance with ESC Installation and Maintenance Agreement	\$50
Erosion Control Civil Penalty	
Administrative Fee for Civil Penalties	\$125
Per Day of Violation, beyond any applicable cure period per Notice of Violation. (Separate from any required re- inspection fee.)	Maximum of \$5,000 per day.
Revision Fees	
Minor changes to an approved plan	\$110.00
(Examples of minor changes are ones that affect: less than one acre, two lengths of storm drainage pipe, one flood cross-section, or two single-family lots)	
Major changes to approved plans	\$500.00
Revisions to approved plats	\$200.00

BUILDING INSPECTION FEES

Section 1. One/Two Family/Townhouse

One / Two Family / Townhouses		
New Construction & Additions		
Building:		Per Square Foot
	Roofed:	.15
	Unroofed:	.10
	Modular Home:	\$300.00
Plumbing:		Per Fixture
		\$10.00
	Modular Home:	\$100.00
Mechanical:		Per Appliance
	New:	\$125.00
	Change out:	\$100.00
	Modular Home: Set Compressor Only:	\$100.00
Electrical:		Per Square Foot
		.12
	Saw Service:	\$60.00
	Service Change: No Additional Circuits	\$100.00
	Additional Circuits:	

	Use Square Foot Charge	
	Modular Home: Set Electrical Service Only:	\$100.00
Renovations/Up Fits		
Building:		Per Square Foot
		.12
Plumbing:		Per Fixture
		&10.00
Mechanical:		
	Additional Units:	\$125.00 Per Unit
	Ductwork Only:	.10
Electrical:		Per Square Foot
	Additional Circuits Only in Affected Area: Requiring Service Change – Use New Construction	.10
Miscellaneous		
HORF	Home Owner Recovery Fund	\$10.00
Pools		\$100.00

Section 2.Commercial. Permit fees for building shall be determined by multiplying the total gross building floor area by the cost per square foot as shown below:

Plumbing, Mechanical, Electrical: See Schedule below

Occupancy Group	15,000 sq. ft. and less	> than 15,000 sq. ft.
Commercial	.20	.18
Institutional	.30	.25
Storage, Utility and Miscellaneous	.14	.12

GRADUATED FEE. Permit fees for structures and repairs not able to be permitted by square footage:

\$0 to \$100,000	.012 x cost of project
\$100,001 to \$500,000	\$1,000 PLUS .0012 x cost of project
\$500,001 to \$1,000,000	\$1,500 PLUS .00076 x cost of project
Over \$1,000,000	\$2,250 PLUS .0006 x cost of project

Section 3. Electrical Schedule.

POWER SERVICE or SUB PANEL

Description	Fee
Per Square Foot or based on amps, whichever is more	.10
0 – 100 AMPS	\$75
101 – 200 AMPS	\$100
201 – 400 AMPS	\$200
401 – 600 AMPS	\$250
601 – 1000 AMPS	\$350
1001 – 2000 AMPS	\$600
2001 – Above AMPS	\$1,100

OTHER ELECTRICAL SERVICE

Description	Fee
Electrical Service for Mobile Home (Only)	*See Power Service Chart above
Fee for All Unclassified Installations	\$60
Pole Service/Based on Power Service Size	*See Power Service Chart above
Pools: Commercial	\$150
Sign Service/Based on Power Service Size	*See Power Service Chart above
Temporary Saw Pole – New Commercial (existing buildings and farm buildings)	\$60.00

Section 4. Mechanical Schedule.

Description	Fee
Per Square Foot	.10
Fee for All Unclassified Installations	\$60.00
Fire Suppression for Range Hood	\$60.00
Gas Line (Only)	\$60.00
Gas Water Heater (Change Out) (\$25 each additional unit, same trip)	\$60.00
Heat pump, Apollo unit, gas pack or furnace with a/c (\$25 each additional unit, same trip)	\$60.00
Mechanical Unit for Mobile Home (Only)	\$60.00
Radiant Heat Systems, Wall Furnace, Unit Heater, Fireplace Insert, Gas Logs, Gas Light, Gas Grill, etc.	\$60.00

Proposed Fees In Red

Range Hood (Commercial)	\$60.00
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Section 5.Plumbing Schedule.

Description	Fee
Per Fixture	\$10.00
Fee for All Unclassified Installations	\$60.00
Gas Line (Only)	\$60.00
Water Heater (Change Out) (\$20 each additional unit, same trip)	\$60.00

Section 6.Schedule of Permit Fees.

Description	Fee
24- Hour Fast Track Inspection Fee ¹	\$600 plus \$150 per inspection
Archive Research	\$45.00
Building Permit Sign Card	\$10.00
Certificate of Occupancy	\$10.00
Change of Occupancy Permit (Change of Use)	\$60.00
Commercial Plan Review (Buildings larger than 1,000 sq. ft.)	\$150 (Fee to be credited to Building Permit Fee when permitted) *Non-refundable if not approved
Commercial Renovations	[Square feet of renovated area times the fee of occupancy determined, (as per commercial table fee schedule) times 75%]
Demolition Permit	\$60.00
Emergency Inspection (Not regular business hours)	\$250 per inspection
Minimum Fee	\$60.00
Mobile Home Setup	
Single	\$250.00
Double	\$350.00
Modular Units (Commercial)	75% Of Trade Fees
Occupancy Permit (Tenant Change Only)	\$60.00
Re-inspection Fee	\$100.00
Returned Check	Maximum allowed by N.C.G.S. 25-3-512
Shell Building (Initial Permit)	[Square feet times fee of Storage Occupancy, (as per commercial table fee schedule)]
Signs	\$60.00
Starting Work Without Permit	Double Permit Fee

Upfit of Shell Building	Use graduated fee schedule, plus all trade fees
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¹The fast track fees are intended to allow for flexibility in plan review and/or inspections on time critical projects.

Section 7. Fire Prevention Permits

Fire Prevention Construction Permits	
Description	Fee
105.7.1 - Automatic Fire Extinguishing System	\$100.00
105.7.2 – Battery Systems of More Than 50 Gallons Liquid	\$100.00
105.7.3 – Compressed Gases	\$100.00
105.7.4 Fire Alarm – Detection Systems & Related Equipment	\$75.00
105.7.5 Fire Pumps & Related Equipment	\$200.00
105.7.6 – Flammable & Combustible Liquids	\$100.00
105.7.7 – Hazardous Materials	\$200.00
105.7.8 – Industrial Ovens	\$100.00
105.7.10 – Private Fire Hydrants	\$100.00
105.7.11 - Spraying & Dipping Operations	\$100.00
105.7.12 – Standpipe System	\$100.00
105.7.13 – Temporary Membrane Structures, Tents & Canopies	\$10.00
Fire Prevention Operational Permits	
Description	Fee
105.6.2 - Amusement Buildings	\$100.00
105.6.4 - Carnivals & Fairs	\$50.00
105.6.6 - Combustible Dust Producing Operation	\$100.00
105.6.9 - Covered Mall Buildings	\$50.00
105.6.13 - Exhibits & Trade Shows	\$50.00
105.6.14 - Explosives	\$100.00
105.6.16 - Flammable & Combustible Liquids	\$50.00
105.6.16a - Operation of Fuel Dispensing Facility	\$50.00
105.6.16b - Temporarily Place Tank Out of Service	\$100.00
105.6.16c - Change Contents of Flammable /Combustible Liquid Tank	\$100.00
105.6.16d - Manufacture, Process, Blend or Refine Flammable/Combustible Liquids	\$100.00
105.6.19 - Fumigation & Thermal Insecticidal Fogging	\$100.00
105.6.26 – Liquid or Gas Fueled Vehicles or Equipment in Assembly Building	\$50.00
105.6.35 – Private Fire Hydrants	\$50.00
105.6.41 – Spraying & Dipping Operation	\$200.00

Proposed Fees In Red

105.6.43 – Temporary Membrane Structures, Tents & Canopies	\$50.00
On Site Fireworks Operational Assistants	\$100.00

Section 7. Fire Prevention Permits (Continued)

Fire Prevention Plan Review	
Description	Fee
Plan Review Fee	\$.018 PSF
Minimum Plan Review Fee	\$30.00
Plan Review Fee for the public exhibition of pyrotechnics	\$100.00
Plan Review Fees are due at the time of submittal and are NON-REFUNDABLE.	
Fire Prevention Inspection Fees (Specific)	
Foster Home, Day Care, Therapeutic & Group Homes	\$60.00
ABC Inspection	\$60.00
Fire Prevention Inspection Fees (Periodic)	
Initial Inspection	\$60.00
Re-Inspection	\$100.00
<p>Re-inspection Fees: Additional inspection trips made necessary through the failure of any person, firm or corporation in charge of work, to give specific locations of work to be inspected, or to otherwise create conditions making such additional inspections or trips necessary, are hereby designated "Re-inspections." For each such "Re-inspection", the following fee schedule shall apply for each offense. This shall apply to all Inspections unless otherwise noted.</p>	

Section 8. General Information

- Minimum fee for any permit is \$60.00
- Additional inspection trips made necessary through the failure of any person, firm, or corporation in charge of work, to give specific locations of work to be inspected or to otherwise create conditions make such additional inspections or trips necessary, are hereby designated "Extra Inspections". For each "Extra Inspection", a fee of \$100 shall be imposed for each offense.
- A permit issued pursuant to G.S. 160A-417 expires six months, or any lesser time fixed by ordinance of the Town, after the date of issuance if the work authorized by the permit has not commenced. If after commencement the work is discontinued for a period of 12

Proposed Fees In Red

months, the permit therefore immediately expires. No work authorized by a permit that has expired may thereafter be performed until a new permit has been secured. (G.S. 160A-418)

Therefore, the following fees will be charged for permits that are allowed to expire:

1. Permit expiring after six months

A. A new, second permit will be issued within six months of the expiration date of the first permit with a minimum fee of \$60.

B. Time that lapses beyond six months of the expiration date will require the full amount of fees to be charged.

2. Permit expiring after 12 months from last inspection performed:

A new, second permit will be issued with the full amount of fees being charged.

OTHER TOWN FEES

Description	Fee
Cemetery Fees	
Plot Cost Per Site:	
Resident	\$500.00
Non-Resident	\$700.00
Opening/Closing Costs:	
Weekdays*	\$600.00
Holidays/Weekends	\$750.00
Cremations:	
Weekdays	\$300.00
Holidays/Weekends*	\$450.00
Relocation of body:	
Relocation of body	\$200.00
Relocation of body with small service	\$300.00
*Any openings and closing that occur after 4:00 p.m. will be subject to an additional \$100.00 charge for this service	
Storm Drain Camera Services	
	Fees as Follows
Initial Set-up	\$250.00
Minimal Charge	\$400.00

Proposed Fees In Red

Footage Charge	\$1.05 per foot
Miscellaneous Fees	
Chicken Permit Fee (Due yearly: July 1- June 30)	\$25.00
Return Check Fee (or actual cost, if more than above approved fee)	\$30.00
Legal Advertisements (actual cost billed)	Actual
Copy fees (per copy – letter, legal & ledger size)	\$.25
CD – Public Information downloaded	\$3.00
Misc. Copy fees:	\$.25
• Scanned – letter, legal & ledger size (per sheet)	
• Scanned – maps/plans 18" x 24" or larger (per sheet)	\$1.00
Fax – local	No charge
Out of area – first two pages	\$3.00
Each additional page	\$1.00

**Non-profit organizations that are registered with the state of North Carolina and are applying for a zoning use permit for seasonal outdoor sales use are exempt from paying this fee; however, they must file an application with the Planning & Community Development Department*

Section 9. Garbage Fee

A prorated garbage fee of \$6.67 per month left in the fiscal year shall be charged at the time the Certificate of Occupancy is issued in accordance with the following schedule:

July	Month 1	\$80.00
August	Month 2	\$73.37
September	Month 3	\$66.03
October	Month 4	\$60.03
November	Month 5	\$53.36
December	Month 6	\$46.69
January	Month 7	\$40.02
February	Month 8	\$33.35
March	Month 9	\$26.68
April	Month 10	\$20.01
May	Month 11	\$13.34
June	Month 12	\$6.67



Erosion Control Plan Checklist

This Erosion Control Plan Checklist shall accompany all plan submittals or the submittal shall be considered incomplete. Items not applicable should be marked "N.A." Refer to Town of Waxhaw Engineering, Standards and Procedures Manual, Title XV, Chapter 159, and NCDEQ Design Manual, latest edition. Prior to Erosion and Sedimentation Control Plan approval, all applicable plan submittals and approvals from the Department of Development Services shall be obtained, including but not limited to watershed, roadway and storm drainage, Town and State driveway permits and encroachments. All plans must be submitted concurrently with the erosion control plans.

- Maximum plan sheet size is 24"x 36".
- Show a north arrow and vicinity map on the erosion control plan.
- Show a final grading plan, if different from the erosion control plan (2' contours).
- The maximum scale is 1" = 50'.
- Show all property lines and right-of-ways.
- Show sidewalks in accordance with the Town of Waxhaw Engineering, Standards and Procedures Manual.
- Show a legend. Call out each measure on the plan. The legend symbols and plan should match.
- Show water and sewer erosion control measures on erosion control plan. Show the size and location of existing and proposed storm and sewer structures.
- Show existing and proposed (2 foot or 1 foot) contours.
- Show denuded areas (outline in BOLD on plans and note denuded acreage on plans).
- Show planned and existing buildings locations and FFE.
- Show planned and existing roads locations, elevations and profiles.
- Show lot and/or building numbers.
- Show seeps, springs, or wetland limits.
- Show all easement lines (gas, electric, water, sewer, etc.).
- Show boundaries of the total tract of land where disturbing activity will take place.
- Show borrow, waste areas, and stockpiled soil locations.



Erosion Control Plan Checklist

- _____ Show existing and planned drainage areas including off-site areas that drain through the project area.
- _____ Indicate the size of drainage areas above drainage structures.
- _____ Show soil type(s) and special characteristics.
- _____ Show design calculations for peak discharges of runoff.
- _____ Show a watershed plan.
- _____ Show a storm drainage plan.
- _____ Show design calculations per the Town storm water design manual.
- _____ Show design calculations per the Town of Waxhaw Engineering, Standards and Procedures Manual, cross-sections and method of stabilization of existing and planned channels per the NCDEQ Design Manual, latest edition.
- _____ Show design and construction details of energy dissipaters below storm outlets including the size of stone used for rip rap per the NCDEQ Design Manual, latest edition.
- _____ Show design calculations and construction details to control groundwater per the NC DENR Design Manual, latest edition.
- _____ Impervious Coverage:

Existing	_____	Parcel Area	_____
Proposed	_____	% Coverage	_____
- _____ NCDOT Driveway Permit and/or Town of Waxhaw Driveway Permit/Encroachments
- _____ Copies of written approvals from US Army Corps of Engineers and/or NC Dept. Environmental Quality and other applicable approvals.
- _____ Show all perennial and intermittent stream buffers and show widths. Add note requiring orange net fencing along all stream buffers.
- _____ The Developer must obtain the written permission of the adjacent property owner(s) for any off-site grading or construction prior to construction drawing approval.
- _____ Show the name of the first watercourse into which storm water leaving the site is tributary.
- _____ Show the location of all temporary and permanent erosion and sedimentation control measures.



Erosion Control Plan Checklist

- _____ Show construction detail drawings for all temporary and permanent erosion and sedimentation control measures per the Town of Waxhaw Engineering, Standards and Procedures Manual.
- _____ Show all design calculations for sediment basins and sediment traps per the NCDEQ Design Manual, latest edition. Note: Minimum of 3 coir fiber baffles per the NCDEQ Design Manual.
- _____ Label basin contours. Tie into existing contours. Show basin dimensions and weir lengths on the plans.
- _____ Show wetland protection measures (Orange net fence).
- _____ Show temporary stream crossings (work along streams, lakes, ponds and wetlands) and details of how each will be stabilized.
- _____ Show maintenance requirements of temporary erosion and sedimentation control measures during construction.
- _____ Indicate the name and phone number of the person who is responsible for maintenance of temporary measures during construction on the plans.
- _____ Show maintenance requirements of permanent erosion and sedimentation control measures following construction.
- _____ Indicate the name and phone number of the person who is responsible for maintenance of permanent measures following construction on the plans.
- _____ Show all areas and acreage to be vegetatively stabilized.
- _____ Drainage area maps clearly and legibly depicts on-site and off-site areas (colored coded maps encouraged). All drainage area maps indicate project limits and are at a legible scale.
- _____ Show planned vegetation with details of plants, seed, mulch, and fertilizer. Include seeding requirement from the Town of Waxhaw Engineering, Standards and Procedures Manual.
- _____ Show specifications for permanent and temporary vegetation.
- _____ Indicate the specified method of soil preparation.
- _____ Attach the Financial Responsibility Form from the Town of Waxhaw Engineering, Standards and Procedures Manual.



Erosion Control Plan Checklist

- _____ Attach bid specifications regarding erosion and sedimentation control measures.
- _____ Indicate setback for streams outside the designated floodplains - 5 times width of top of bank or 20 feet on each side, whichever is greater, as measured from the top of bank.
- _____ 100-year flood plain (old and, if needed, new) and base flood elevation. valves, hydrants, sanitary sewer lines, manholes, gas lines, valves, telephone, cable television, and electric lines and poles.
- _____ Deviations from the Town of Waxhaw Engineering, Standards and Procedures Manual must be clearly noted on the plan. *(The Developer must request any deviation from the manual in writing along with justification for review and recommendation by Staff prior to plan review).* Modifications to the Town of Waxhaw standard details require that the Town's title block be removed from the detail.
- _____ The following notes will be included on all plan sets:
1. If disturbing less than 1 acre, add this note: Ground cover on exposed slopes shall be applied within 14 working days following completion of any phase of grading. Permanent ground cover for all disturbed areas shall be applied within 15 working days or 60 calendar days, whichever is sooner. Slopes left exposed will, within 14 calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion.
 2. If disturbing 1 acre or more, add this note: As required by the NPDES General Permit NCG010000, all perimeter dikes, swales, ditches, perimeter slopes and all slopes steeper than 3 horizontal to 1 vertical (3:1) shall be provided temporary or permanent stabilization with ground cover as soon as practicable but in any event within 7 calendar days from the last land disturbing activity. All other disturbed areas shall be provided temporary or permanent stabilization with ground cover as soon as practicable but in any event within 14 calendar days from the last land disturbing activity. Ground stabilization timeframe exemptions can be found in the NPDES General Permit NCG010000 under Section 2.b. Ground Stabilization.
 3. No land disturbing activity, except that which is required to install erosion control measures, may commence prior to approval by the Director of Development Services.
 4. Additional erosion control measures may be required based upon specific site conditions.
 5. Contact the Town of Waxhaw Development Services Department, at 704-843-2195, for a pre- construction meeting prior to any land disturbing activity.



Erosion Control Plan Checklist

6. Remove all temporary erosion control devices and structures only after site is fully stabilized and approval has been obtained from the Town of Waxhaw Development Services Department.
7. All erosion control designs shall be in accordance with the Town of Waxhaw Engineering, Standards and Procedures Manual, and the NCDEQ Erosion and Sedimentation Control Planning and Design Manual, latest edition.
8. For phased erosion control plans, the Contractor shall meet with the Erosion Control Specialist prior to commencing each phase of erosion control measures.
9. Site grading is to be covered under the General Stormwater Permit NCG010000. Any land disturbing activity > 1 acre requires compliance with all conditions of this general permit under the NPDES. Any noncompliance is a violation of the Clean Water Act and may require enforcement by NCDEQ.
10. Contractor is to keep street clear of mud and other debris.
11. The Professional Engineer registered with the State of North Carolina who prepared the Erosion Control Plan is solely responsible for identification and location of all environmental wetlands, perennial and intermittent streams and buffers shown on the plans.
12. The Town of Waxhaw is not responsible for the accuracy and adequacy of the design, dimensions, and elevations, which shall be confirmed and correlated at the job site. The Town of Waxhaw, through the approval of this document, assumes no responsibility for the completeness and/or accuracy of this document.
13. Silt sacks will be placed in basins/inlets along roadways after initial asphalt surface work is completed.
14. The financially responsible party/agent or the landowner/agent of a land disturbing activity > one acre is required to self-inspect the project. A self inspection, as well as documentation of a project after each phase of the project, is required.

_____ Include scheduling notes and construction notes as well as all pertinent Erosion Control Details from the Town of Waxhaw Engineering, Standards and Procedures Manual on all plan sheets.

_____ Provide construction sequence notes as well as any additional notes necessary to describe the basic sequence of events on the site.

_____ Projects disturbing one acre or more in area are automatically covered by the NPDES



Erosion Control Plan Checklist

General Stormwater Permit NG010000 for construction related activities, provided that basin design requirements and ground stabilization requirements from that permit are included on the erosion control plan. To meet this requirement, include the ground stabilization timeframe table from the Town of Waxhaw Engineering, Standards and Procedures Manual and basin design requirements on the erosion control plan and/or detail sheet, if disturbing 1 acre or more.

_____ NPDES General Stormwater Permit NG010000 requires plans to identify areas where the 7 and 14 day ground stabilization requirements will apply. Please show areas on erosion control plan by using hatching, labeling, or other similar conventions.

_____ Erosion Control Review Fee.

_____ Bond Amount in the form of certified check, cash, or irrevocable letter of credit.

_____ Grading more than one acre without an approved Erosion Control Plan is a violation of the Town of Waxhaw Erosion and Sedimentation Control Ordinance.

_____ Driveway permit for construction entrances in NCDOT right-of-way must be presented at pre-construction meeting.



EROSION CONTROL FINANCIAL RESPONSIBILITY FORM

No person may initiate any land-disturbing activity as defined in Chapter 159 of the Town of Waxhaw Town Code prior to completion of this form, and an applicable and acceptable erosion and sedimentation control plan has been approved by the Development Services Department.
(Please type or print)

Part I

Name of Project: _____

Address where land disturbing activity will take place: _____

Approximate date disturbing activity will commence: _____

Purpose of development (residential, commercial, industrial, etc.): _____

Total acreage of land to be disturbed or uncovered: _____

Amount of fee enclosed (show calculation): _____

Agent to contact should sediment control issues arise during land disturbing activity:

Name: _____
Address: _____
State: _____ Zip code: _____
Phone: _____ Email: _____

Landowner(s):

Name: _____
Address: _____
State: _____ Zip code: _____
Phone: _____ Email: _____

Name: _____
Address: _____
State: _____ Zip code: _____
Phone: _____ Email: _____

Indicate Book and Page where deed of the property where land disturbing activity will take place is recorded:

Book: _____ Page: _____
Book: _____ Page: _____



EROSION CONTROL FINANCIAL RESPONSIBILITY FORM

Book: _____ Page: _____

Book: _____ Page: _____

Indicate tax map and parcel number of the property where land disturbing activity will take place is recorded:

Tax Map: _____ Parcel: _____

Tax Map: _____ Parcel: _____

Tax Map: _____ Parcel: _____

Tax Map: _____ Parcel: _____

Part II

Person(s) or firm(s) who are financially responsible for the land disturbing activity:

Name: _____

Address: _____

State: _____ Zip code: _____

Phone: _____ Email: _____

Name: _____

Address: _____

State: _____ Zip code: _____

Phone: _____ Email: _____

Name: _____

Address: _____

State: _____ Zip code: _____

Phone: _____ Email: _____

If the financially responsible party is not a resident of North Carolina, give the name and address of a North Carolina Agent:

Name: _____

Address: _____

State: _____ Zip code: _____

Phone: _____ Email: _____

If the financially responsible party is a partnership or other person engaging in business under an assumed name, attach a copy of the Certificate of Assumed Name. If the financially responsible party is a corporation, give the name and address of the registered agent.

Name: _____

Address: _____

State: _____ Zip code: _____

Phone: _____ Email: _____



EROSION CONTROL FINANCIAL RESPONSIBILITY FORM

The above information is true and correct to the best of my knowledge and belief and was provided by me under oath. I agree to provide corrected information should there be any change in the information provided herein. (This form must be signed by the financially responsible person if an individual or his attorney in fact, or if not an individual, by an officer, director, partner, or registered agent with authority to execute instruments for the financially responsible person)

Name: _____
Address: _____
State: _____ Zip code: _____
Phone: _____ Email: _____

I, _____, a Notary Public of _____
County, North Carolina, do hereby certify that _____ personally
appeared before me this day, and being duly sworn, stated that in his presence _____
_____ (signed) (acknowledged the execution of) the foregoing instrument.

Witness my hand and official seal, this the _____ day of _____, 20__.

(Official Seal) _____
Notary Public

My commission expires _____, 20__.



**NON-RESIDENTIAL
EROSION AND SEDIMENT CONTROL INSTALLATION AND MAINTENANCE
AGREEMENT**

ANY LAND DISTURBING ACTIVITY LESS THAN 12,000 SQUARE FEET

STREET ADDRESS: _____
SUBDIVISION: _____
LOT NUMBER: _____
TOTAL ACREAGE: _____
TOTAL ACREAGE DISTURBED: _____
ANTICIPATED START DATE*: _____
ESTIMATED COMPLETION DATE: _____
PROPERTY OWNER: _____
TAX PARCEL NUMBER: _____

***ALL EROSION AND SEDIMENT CONTROL MEASURES MUST BE IN PLACE PRIOR TO COMMENCING LAND DISTURBING ACTIVITIES.**

Option _____ or a combination of options _____, that best suit this site. Sediment control measures will be installed as detailed.

Person or firm financially responsible for project:

Printed Name: _____ Signature: _____

Company Name (if applicable)

Company President (if applicable)

Address:

Phone Number: _____

Email: _____

Site Drawing (Sketch of proposed site, including adjacent drainage and public right-of-way. Attach separate document if needed.)



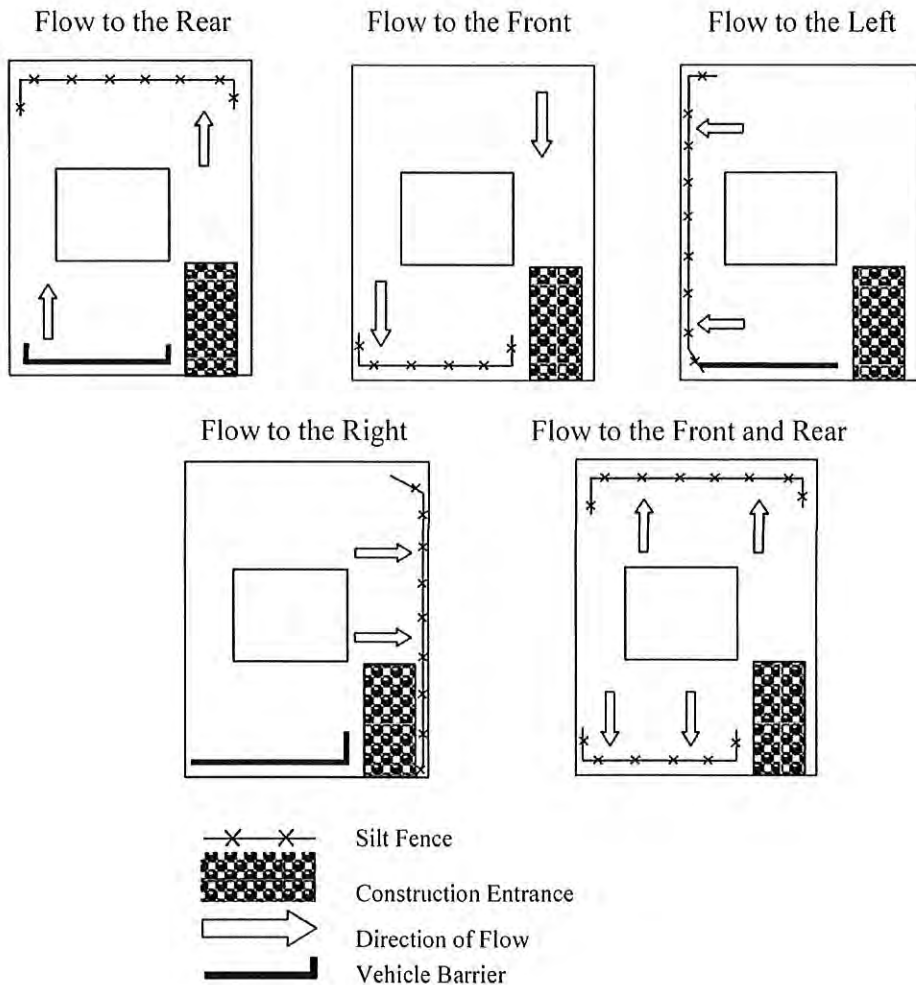
**NON-RESIDENTIAL
EROSION AND SEDIMENT CONTROL INSTALLATION AND MAINTENANCE
AGREEMENT**

ANY LAND DISTURBING ACTIVITY LESS THAN 12,000 SQUARE FEET

The Town of Waxhaw Erosion and Sediment Control Ordinance requires that anyone conducting land-disturbing activity control sediment and provide adequate measures to retain sediment at the disturbed site. The total disturbed area of the site includes any borrow or waste areas that are used for the residential site, if the borrow or waste areas are not currently permitted by the Town of Waxhaw or NCDEQ. Land-disturbing activities include demolition and land clearing. Erosion Control measures must be installed in accordance with the Town of Waxhaw Engineering, Standards and Procedures Manual.

Failure to install or maintain erosion control measures may result in penalties of up to \$5000 per day.

If any indicated Erosion and Sedimentation Control (ESC) measures are not installed, a re-inspection fee will be required.





**SINGLE FAMILY RESIDENTIAL DEVELOPMENT /
SINGLE FAMILY RESIDENTIAL LOT
EROSION AND SEDIMENT CONTROL INSTALLATION AND MAINTENANCE
AGREEMENT**

ANY LAND DISTURBING ACTIVITY LESS THAN ONE ACRE

STREET ADDRESS: _____
SUBDIVISION: _____
LOT NUMBER: _____
TOTAL ACREAGE: _____
TOTAL ACREAGE DISTURBED: _____
ANTICIPATED START DATE*: _____
ESTIMATED COMPLETION DATE: _____
PROPERTY OWNER: _____
TAX PARCEL NUMBER: _____

***ALL EROSION AND SEDIMENT CONTROL MEASURES MUST BE IN PLACE PRIOR TO COMMENCING LAND DISTURBING ACTIVITIES.**

Option _____ or a combination of options _____, that best suit this site. Sediment control measures will be installed as detailed.

Person or firm financially responsible for project:

Printed Name: _____ Signature: _____

Company Name (if applicable)

Company President (if applicable)

Address:

Phone Number: _____

Email: _____

Site Drawing (Sketch of proposed site, including adjacent drainage and public right-of-way. Attach separate document if needed.)



**SINGLE FAMILY RESIDENTIAL DEVELOPMENT /
SINGLE FAMILY RESIDENTIAL LOT
EROSION AND SEDIMENT CONTROL INSTALLATION AND MAINTENANCE
AGREEMENT**

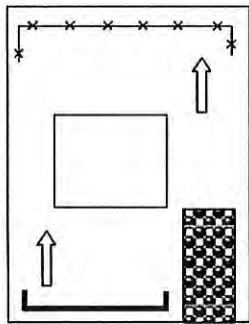
ANY LAND DISTURBING ACTIVITY LESS THAN ONE ACRE

The Town of Waxhaw Erosion and Sediment Control Ordinance requires that anyone conducting land-disturbing activity control sediment and provide adequate measures to retain sediment at the disturbed site. The total disturbed area of the site includes any borrow or waste areas that are used for the residential site, if the borrow or waste areas are not currently permitted by the Town of Waxhaw or NCDEQ. Land-disturbing activities include demolition and land clearing. Erosion Control measures must be installed in accordance with the Town of Waxhaw Engineering, Standards and Procedures Manual.

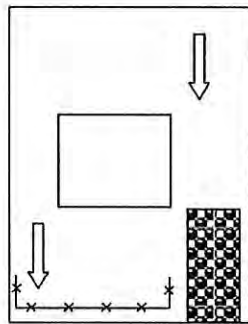
Failure to install or maintain erosion control measures may result in penalties of up to \$5000 per day.

If any indicated Erosion and Sedimentation Control (ESC) measures are not installed, a re-inspection fee will be required.

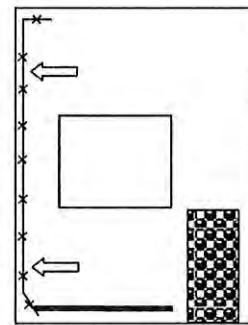
Flow to the Rear



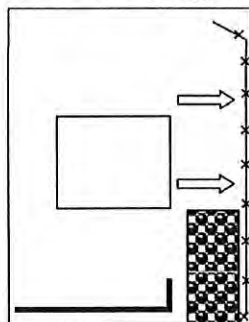
Flow to the Front



Flow to the Left



Flow to the Right



Flow to the Front and Rear

